

# SUMMARY ANALYSIS OF AMENDED BILL

## Franchise Tax Board

Author: Frusetta Analyst: Kristina E. North Bill Number: AB 2208

Related Bills: See Prior Analysis Telephone: 845-6978 Amended Date: April 25, 2000

Attorney: Patrick Kusiak Sponsor:

**SUBJECT:** Employer Provided Health Care Credit/Farmworkers/CA Farmworker Health Care Protection Act of 2000/FTB Report to Legislature

DEPARTMENT AMENDMENTS ACCEPTED. Amendments reflect suggestions of previous analysis of bill as introduced/amended \_\_\_\_\_.

AMENDMENTS IMPACT REVENUE. A new revenue estimate is provided.

AMENDMENTS DID NOT RESOLVE THE DEPARTMENT'S CONCERNS stated in the previous analysis of bill as introduced February 24, 2000.

FURTHER AMENDMENTS NECESSARY.

DEPARTMENT POSITION CHANGED TO \_\_\_\_\_.

REMAINDER OF PREVIOUS ANALYSIS OF BILL AS INTRODUCED FEBRUARY 24, 2000, STILL APPLIES.

OTHER - See comments below.

### SUMMARY OF BILL

Under the Personal Income Tax Law and the Bank and Corporation Tax Law, this bill would provide a tax credit equal to 25% of the qualified expenses paid or incurred by a taxpayer for preventive health care, a health plan, or preventive care insurance provided to the taxpayer's employees who are qualified farmworkers.

The Franchise Tax Board (FTB) is required to report to the Legislature, by December 1, 2005, the number and dollar value of the credits provided by this bill.

### SUMMARY OF AMENDMENT

The April 25, 2000, amendment changed the due date of the FTB report by one month from January 1, 2006, to December 1, 2005. This change would not significantly impact the department.

Except for the change discussed in this analysis, the remainder of the department's analysis of the bill as introduced February 24, 2000, still applies. The constitutional, implementation and technical considerations, and the board position are restated below.

### Constitutional Consideration

This bill would require that a farmworker be a resident of California to make a taxpayer eligible for a credit. This requirement may be subject to constitutional challenge as discriminatory against nonresident employees who work in California. The credit already requires that farmworkers provide all of their services for the taxpayer within California, which ensures that the credit is targeted to California workers and does not raise constitutional concerns.

#### Board Position:

<input type="checkbox"/> S	<input type="checkbox"/> NA	<input type="checkbox"/> NP
<input type="checkbox"/> SA	<input type="checkbox"/> O	<input type="checkbox"/> NAR
<input type="checkbox"/> N	<input type="checkbox"/> OUA	<input checked="" type="checkbox"/> PENDING

#### Legislative Director

#### Date

Johnnie Lou Rosas

5/4/00

### **Implementation Considerations**

- ◆ To ensure the author's intentions are achieved and to minimize disputes with taxpayers, a clearer definition of "preventive health care" and its components, including the term "contagious disease," is needed.
- ◆ A "health plan" and "preventive care insurance" are included under the definition of "qualified expenses," but are not themselves defined. It is not clear which amounts paid or incurred for providing a health plan or preventive care insurance are eligible for the credit. Moreover, it is unclear whether the author intended that expenses paid to a health plan or for preventive care insurance be limited to those plans covering items defined as "preventive health care." Definitions are needed for these terms to give clear guidance to taxpayers about what expenses are eligible for the credit.
- ◆ The bill limits the maximum allowable credit that can be claimed to \$50,000 per taxpayer for each taxable or income year. However, where the "credit" in any one year exceeds the \$50,000 credit limit that may be claimed, this bill would allow the excess to be carried over to reduce the taxpayer's tax liability for eight subsequent years. This carryover provision may be inconsistent with the language limiting the maximum credit that may be claimed to \$50,000. In addition, it is unclear from the language limiting the credit to \$50,000 each year whether the credit is intended to apply only to new expenditures subject to the credit or to limit carryover credits plus newly-claimed credits to this \$50,000 amount.
- ◆ This bill defines a qualified farmworker as an individual who, at the time qualified expenses are paid, is not receiving publicly funded health care services, "as verified" by the appropriate county office of health services. However, verification may be difficult for the taxpayer to obtain because 1) a county is not required to provide verification; and 2) a county may not have the information available regarding the receipt of publicly funded health care services by an otherwise qualified farmworker. Moreover, since medical information is subject to confidentiality rules, a public agency may not be able to release the information without specific authorization.

Department staff is available to assist in resolving these and any other concerns.

### **Technical Considerations**

The language allowing carryover of the credit after repeal of the section is unnecessary and should be deleted since general tax law rules contain this provision.

The bill references clinics or health facilities licensed pursuant to Division 2 (commencing with Section 1220) of the Health and Safety Code. The reference needs a technical correction, because Division 2 begins with Section 1200, not Section 1220.

Also, Division 2 covers a variety of facilities, such as child care centers and residential facilities for the elderly. The author may wish to narrow the reference to the chapters specifically describing clinics and health facilities.

**BOARD POSITION**

Pending.